IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1107 OF 2006
IN
CRIMINAL APPEAL NO.322 OF 2006

Ahmed Mohd.Jilani Shaikh .. Applicant

Vs.

The State of Maharashtra & Anr. .. Respondents

Mr.M.H.Bandarkar i/b Zia-u-Mustafa for the applicant

Mr.A.S.Gadkari, A.P.P. for the state

**CORAM : J.N.PATEL &**
**R.S.MOHITE, JJ.**

**DATED : 8TH JANUARY, 2007**

P.C.:
1. Heard.

2. The appellant accused has been convicted by the trial court for having committed offence u.s.394 and 397 of the Indian Penal Code and sentenced to suffer imprisonment for life and 7 years R.I. respectively and acquitted for having committed offence u.s. 37 (i)(a) u/s.135 of Bombay Police Act. According to the prosecution, the appellant accused alongwith three other co-accused, out of which two are absconding hired auto-rickshaw

of the complainant, caused injuries at the point of knife and robbed his auto-rickshaw alongwith cash of Rs.400/-.

3. The learned counsel for the applicant submits that sentence of life imprisonment is too harsh and that the appellant accused has no criminal antecedents to his discredit and, therefore, considering the evidence on record, his case deserves to be considered for suspension of sentence.

4. The learned A.P.P. has pointed out to this court that in addition to overwhelming evidence of the persons and participation of the appellant accused and the time and hour when they committed the offence and the nature of offence committed by them itself goes to show that incase they are released on bail there is all likelihood of their repeating same type of offence as the co-accused in the case has criminal antecedents to his credit and earlier the said accused was also externed.

5. We do not find that this is a fit case

where the appellant accused's substantive sentence can be suspended. In so far as contention of the learned counsel for the appellant that the punishment of imprisonment for life is too harsh, can be considered at the time of hearing of the appeal on merits. Therefore, the application is rejected.

**( SHRI J.N. PATEL, J )**

**( SHRI R.S.MOHITE, J )**